

## ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda--underwritten by global corporations--includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

### ALEC's Corporate Board --in recent past or present

- AT&T Services, Inc.
  - centerpoint360
  - UPS
  - Bayer Corporation
  - GlaxoSmithKline
  - Energy Future Holdings
  - Johnson & Johnson
  - Coca-Cola Company
  - PhRMA
  - Kraft Foods, Inc.
  - Coca-Cola Co.
  - Pfizer Inc.
  - Reed Elsevier, Inc.
  - DIAGEO
  - Peabody Energy
  - Intuit, Inc.
  - Koch Industries, Inc.
  - ExxonMobil
  - Verizon
  - Reynolds American Inc.
  - Wal-Mart Stores, Inc.
  - Salt River Project
  - Altria Client Services, Inc.
  - American Bail Coalition
  - State Farm Insurance
- For more on these corporations, search at [www.SourceWatch.org](http://www.SourceWatch.org).

& MEETING

**DID YOU KNOW?** Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

Home → Model Legislation → Public Safety and Elections ←

### Environmental Corrupt Organizations- Preventative Legislation and Neutralization (ECO-PLAN) Forfeiture Act

#### 1.1 Definitions

All definitions shall include those in section 1.1 of the Environmental Corrupt Organizations- Preventative Legislations And Neutralization Act.

#### 1.2 Criminal Forfeiture

(1)(a) The court, in imposing sentence on a person convicted of any offense in violation of the Environmental Corrupt Organizations- Preventative Legislations And Neutralization Act, may order that the person forfeit to the state of any traceable real or personal property involved in such offense, or any real or personal property traceable to such property.

(b) The Court may order that the person forfeit to the state of any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation.

#### 1.3 Civil Forfeiture

(1) All property, real or personal, including money, used in the course of, derived from or realized through conduct in violation of any provision in the Environmental Corrupt Organizations- Preventative Legislations And Neutralization Act is subject to civil forfeiture to the state. The state shall dispose of all forfeited property as soon as commercially feasible. If property is not exercisable or transferable for value by the state, it shall expire. All forfeitures or dispositions under this section shall be made with due provision for the rights of innocent persons.

(2) Property subject to forfeiture under this section may be seized by a police officer upon court process. Seizure without process may be made if:

(a) The seizure is incident to a lawful arrest or search or an inspection under an administrative inspection warrant; or

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding based upon this section.

(3) In the event of a seizure under subsection (3) of this section, a forfeiture proceeding shall be instituted promptly. Property taken or detained under this section shall not be subject to repletion, but is deemed to be in the custody of the police officer making the seizure, subject only to the order of the court. When property is seized under this section, pending forfeiture and final disposition, the police officer may:

(a) Place the property under seal;

(b) Remove the property to a place designated by the court; or

(c) Require another agency authorized by law to take custody of the property and remove it to an appropriate location.

(5) The Attorney General, any district attorney or any state agency having jurisdiction over conduct in violation of any provision under the Environmental Corrupt Organizations- Preventative Legislations And Neutralization Act may institute civil proceedings under this section. In any action brought under this section, the circuit court shall give priority to the hearing and determination. Pending final determination, the circuit court may at any time enter such injunctions, prohibitions or restraining orders, or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper. The Attorney General, district attorney or state agency bringing an action under this section may be awarded, upon entry of a final judgment or decree in favor of the state, costs of investigation and litigation, reasonably incurred. Amounts recovered may include costs and expenses of state and local governmental departments and agencies incurred in connection with the investigation or litigation.

(6)(a) Any aggrieved person may institute a proceeding under subsection (1) of this section:

(A) If the proceeding is based upon illicit activity for which a criminal conviction has been obtained, any rights of appeal have expired and the action is against the individual convicted of the illicit activity; or

Did you know the NRA--the National Rifle Association--was the corporate co-chair in 2011?

(B) If the person is entitled to pursue a cause of action under subsection (7)(a)(B) of this section.

(b) In such proceeding, relief shall be granted in conformity with the principles that govern the granting of injunctive relief from threatened loss or damage in other civil cases, except that no showing of special or irreparable damage to the person shall have to be made. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any such action before a final determination on the merits.

(7)(a) Any person who is injured by reason of any violation of the provisions of Sec. 1.2 (1) to (4) shall have a cause of action for three-fold the actual damages sustained and, when appropriate, punitive damages:

(A) If a criminal conviction for the illicit activity that is the basis of the violation has been obtained, any rights of appeal have expired and the action is against the individual convicted of the illicit activity; or

(B) If the violation is based on illicit activity as defined by Sec. 1.1 (7)(b)(A), (K), (N), and (Q) of the Environmental Corrupt Organizations- Preventative Legislations And Neutralization Act.

(b) The defendant or any injured person may demand a trial by jury in any civil action brought pursuant to this subsection.

(c) Any injured person shall have a right or claim to forfeited property or to the proceeds derived therefrom superior to any right or claim the state has in the same property or proceeds.

(8) An investigative agency may bring an action for civil penalties for any violation of Sec. 1.2 (1) to (4) of the Environmental Corrupt Organizations- Preventative Legislations And Neutralization Act. Upon proof of any such violation, the court shall impose a civil penalty of not more than \$2 million.

(9) The Attorney General may, upon timely application, intervene in any civil action or proceeding brought under subsection (6) or (7) of this section if the Attorney General certifies that, in the opinion of the Attorney General, the action or proceeding is of significant public importance. In such action or proceeding, the state shall be entitled to the same relief as if the Attorney General instituted the action or proceeding.

(11)(a) Notwithstanding any other provision of law, a civil action or proceeding under Section 1.2 may be commenced at any time within fifteen years after the conduct in violation of any subsection under Section 1.2 of the Environmental Corrupt Organizations- Preventative Legislations And Neutralization Act terminates or the cause of action accrues. If a civil action or other proceeding is brought, or intervened in, to punish, prevent or restrain any violation of the provisions within the Environmental Corrupt Organizations- Preventative Legislations And Neutralization Act, the running of the period of limitations prescribed by this section with respect to any cause of action arising under subsection (6) or (7) of this section which is based in whole or in part upon any matter complained of in any such prosecution, action or proceeding shall be suspended during the pendency of such prosecution, action or proceeding and for two years following its termination.

(b) A cause of action arising under subsection (6)(a)(A) or (7)(a)(A) of this section accrues when the criminal conviction for the underlying activity is obtained. In addition to any suspension of the running of the period of limitations provided for in paragraph (a) of this subsection, the period of limitations prescribed by paragraph (a) of this subsection is suspended during any appeal from the criminal conviction for the underlying activity.

(12) The application of one civil remedy under any provision of the Environmental Corrupt Organizations- Preventative Legislations And Neutralization Act shall not preclude the application of any other remedy, civil or criminal, under that act or any other provision of law.

(13) In an action brought under the provisions of this section by a person other than the Attorney General, a district attorney or a state agency, the court may award reasonable attorney fees to the prevailing party. In a civil action brought under the provisions of this section by the Attorney General, a district attorney or a state agency, the court may award reasonable attorney fees to the Attorney General, district attorney or state agency if the Attorney General, district attorney or state agency prevails in the action.

#### **1.4 Holistic authority of investigative agency.**

(1) If, pursuant to the civil enforcement provisions of this act, an investigative agency has reason to believe that a person or other enterprise has engaged in, or is engaging in, activity in violation of the Environmental Corrupt Organizations- Preventative Legislations And Neutralization Act, the investigative agency may administer oaths or affirmations, subpoena witnesses or documents or other material, and collect evidence pursuant to the Rules of Civil Procedure.

(2) If matter that the investigative agency seeks to obtain by the subpoena is located outside the state, the person or enterprise subpoenaed may make such matter available to the investigative agency or its representative for examination at the place where such matter is located. The investigative agency may designate representatives, including officials of the jurisdiction in which the matter is located, to inspect the matter on its behalf and may respond to similar requests from officials of other jurisdictions.

(3) Upon failure of a person or entity, without lawful excuse, to obey a subpoena, and after reasonable notice to such person or enterprise, the investigative agency may apply to the circuit court for the judicial district in which such person or enterprise resides, is found or transacts business for an order compelling compliance.

**1.5 Short title.** Sections 1.1 through 1.3 may be cited as the Environmental Corrupt Organizations- Preventative Legislation And Neutralization Forfeiture Act or ECO-PLAN Forfeiture Act.

*Adopted by ALEC's Criminal Justice Task Force at the Annual Meeting July 31, 2003.  
Approved by full ALEC Board of Directors August, 2003.*

**About Us and ALEC EXPOSED.** The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish [www.PRWatch.org](http://www.PRWatch.org), [www.SourceWatch.org](http://www.SourceWatch.org), and now [www.ALECExposed.org](http://www.ALECExposed.org). For more information contact: [editor@prwatch.org](mailto:editor@prwatch.org) or 608-260-9713.

Center for Media  
and Democracy's  
quick summary:

This Act proscribes penalties for violations of the ECO-PLAN Act (passed by Energy, Environment, and Agriculture task force), specifically regarding forfeiture of any profits or property arising from a violation of that Act. Note that this Act provides for a fifteen year statute of limitations, treble damages, and punitive damages. Note also that in the "civil justice" section, ALEC has been working to reduce the statute of limitations (to around two years) and limit punitive damages in lawsuits arising from injury or death caused by negligent corporate practices. Why do ALEC corporations and politicians appear to consider property damages to be more valuable and more worthy of legal protections-- such as with lengthy periods to sue for violations and potentially massive (treble) damages awards-- than for when *people* are injured by corporations?